

**REMARKS**

This Amendment is made in response to the Final Action mailed January 19, 2011. Claims 1-20 have been cancelled and replaced with new claims 21 and 22. Reconsideration and withdrawal of the objections to and rejections of the claims are respectfully requested in view of the above amendments, and further, in view of the following remarks.

Preliminarily, the rejection of claim 19 is moot since the claim has been cancelled. In addition, the rejection of claims 1, 11 -18 and 20 under 35 U.S.C. 112, second paragraph, as being indefinite is moot, however, new claims 21 and 22 have been written taking into consideration this rejection, for example, the Control dentifrice is clearly defined. Withdrawal of the rejection under Section 112, second paragraph, is requested.

Claims 1, 12-15, 17-18 and 20 have been rejected under 35 U.S.C. 102(b) as being anticipated by EPA 0002184, translation attached. In particular, the Action asserts that EPA 0002184 "teaches use of sodium polyphosphate (reads on chelating agent) in fine granulate for tooth cleaning either by itself or in combination with commercial tooth paste formulation referring to abrasive effect of sodium polyphosphate and intensify action of tooth cleaning without damaging the substance of teeth. The reference teaches calcium sequestering agent from 2 to 5% on page 1 of translation and the whole translation. The reference does not teach silica abrasive. Property of the dentifrice composition will be inherent to the composition since all required components are disclosed by prior art." Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 21 now defines the calcium sequestering agent as sodium tripolyphosphate. New claim 22 clarifies that the invention relates to a composition wherein the silica abrasive is a further addition and is not necessarily the same as the 0-5 wt% abrasive claimed. Since EPA 0002184 does not teach each and every element of the claimed invention it cannot be said to anticipate the claims. Therefore, reconsideration and withdrawal of the rejection are respectfully requested.

Claims 1, 12-15, 17-18 and 20 have been rejected under 35 U.S.C. 102(b) as being anticipated by Wagner (USP 4,996,042). In particular, the Action asserts that Wagner "discloses calcium sequestering agent tetrasodium pyrophosphate and mixtures thereof in an amount of 1 to 5% by weight in a tooth paste composition, see column 1, lines 64-68 and column 2, lines 1-4. The reference does not teach abrasive. The claimed property of the composition will be inherent to the composition because the reference teaches the claimed calcium sequestering agent in a tooth paste." Reconsideration and withdrawal of the rejection are respectfully requested.

As stated above, new claim 21 clearly defines the inventive composition as containing 1-20% of pentasodium tripolyphosphate as a calcium sequestering agent and 0-5 wt % of an abrasive, wherein the composition has an RDA value of below 30 and an IVSR

value greater than 50. New claim 22 clearly defines the inventive composition as containing 1-20% of a calcium sequestering agent, 0-5 wt % of an abrasive, and further containing an abrasive silica that has an RDA below 30, wherein the composition has an RDA value of below 30 and an IVSR value greater than 50.

Since Wagner does not teach each and every element of the claimed invention it cannot be said to anticipate the claims. Therefore, reconsideration and withdrawal of the rejection are respectfully requested.

Claims 1, 12-15, 18 and 20 have been rejected under 35 U.S.C. 102(b) as being anticipated by JP 01 237700 (application no.), presented in IDS. According to the Action, "JP teaches dentifrice composition comprising 0.1 % to 5.0% of calcium chelating/sequestering compound such as sodium tripolyphosphate, see abstract. The claimed property of RDA and IVSR will be inherent to the composition since the composition comprises the claimed chelating agent in the claimed range." Reconsideration and withdrawal of the rejection are respectfully requested.

Since JP 01 237700 does not teach each and every element of the claimed invention it cannot be said to anticipate the claims (as defined above). Therefore, reconsideration and withdrawal of the rejection are respectfully requested.

Claims 11 and 16 have been rejected under 35 U.S.C. 1 03(a) as being unpatentable over EP A 0002184 in view of Kostinko et al. (US PG Pub 200310133882 A1). EPA 0002184 as discussed above does not teach pentasodium tripolyphosphate as chelating agent used in composition and abrasive silica. Kostinko teaches abrasive composition for clear tooth paste, title. The reference teaches using pentasodium tripyrophosphate and sodium polymetaphosphate and tetra sodium pyrophosphate, see paragraph [0040]. Kostinko teaches abrasive composition for clear tooth paste, see title. The reference teaches using pentasodium tripolyphosphate and sodium polymetaphosphate and tetra sodium pyrophosphate, see paragraph [0040]. Abrasive silica is disclosed in examples, the dentifrice comprises abrasive silica in the range of 0.01 % wt to 35 wt % and RDA of greater than about 50 (emphasis added). The Action asserts that it would have been obvious to one of ordinary skill to substitute pentasodium tripyrophosphate in the teachings of EP reference because substitution of one chelating agent with another would produce predictable results absent evidence of unexpected results. Reconsideration and withdrawal of the rejection are respectfully requested.

EPA 0002184 does not teach low abrasive toothpaste formulations, rather, it is clearly intended to cover conventional toothpaste formulations where the finely granulates polyphosphate is intended to intensify or to boost standard, conventional toothpaste formulations. These toothpaste formulations will contain, as discussed in the 2<sup>nd</sup> paragraph, traditional toothpaste abrasive materials such as calcium carbonate, dicalcium phosphate etc., which will be present in conventional abrasive levels and thus have RDA values above

those claimed in newly presented claims 21 and 22. There is no motivation in EPA 0002184 to look at low RDA compositions.

Kostinko claims a dentifrice composition that has higher RDA values than those presently claimed, so the relevance to the present invention is not understood. One cannot correctly combine the EPA 0002184 STP formulation with Kostinko's high RDA reference and arrive at the present low RDA composition. The skilled person would not be looking at combining these two references to produce the instant invention as claimed in new claims 21 and 22. Therefore, a *prima facie* case of obviousness has not been established and reconsideration and withdrawal of the rejection are respectfully requested.

Claims 1, 12-15, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 01237700. In particular, the Action asserts that JP 01237700 teaches the overlapping range of the chelating agent sodium tripolyphosphates, and even such a slight overlap in range establishes a *prima facie* case of obviousness. Reconsideration and withdrawal of the rejection are respectfully requested.

Newly presented claims 21 and 22 have been fully discussed above and as such have been distinguished from JP 01237700. Therefore, favorable reconsideration of the rejection is requested.

In view of the foregoing, favorable consideration of new claims 21 and 22 and allowance of this application are earnestly solicited.

Respectfully submitted,  
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